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APPLICATION NO.	FILING DATE FIRST NAMED INVENTOR		ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/591,260	04/26/2007	Susanne Ewert	GK-EIS-1113/500593.20106	9340
26418 REED SMITH	7590 09/08/200 . LLP	EXAMINER		
ATTN: PATENT RECORDS DEPARTMENT 599 LEXINGTON AVENUE, 29TH FLOOR NEW YORK. NY 10022-7650			ELBIN, JESSE A	
			ART UNIT	PAPER NUMBER
- /		2615		
			MAIL DATE	DELIVERY MODE
			09/08/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.	Applicant(s)		
10/591,260	EWERT ET AL.		
Examiner	Art Unit		
JESSE A. ELBIN	2615		

- The MAILING DATE of this communication appears on the cover sheet with the correspondence address - Period for Reply  A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ± MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.  Extensions of time may be available under the provision of 37 CPF 1.136(a). In no event, however, may a right be timely fixed and surfer St. (6) MONTHS from the maining date of the communication.  Failure to right within the set or extended prends for right with by stablet, cause the application to become ARANOXED (25 U.SC. § 133). Any right, provision by the time than the him entire after the communication. Failure to right with the set of extended prends after the maining date of the communication. Failure to majorative. See 37 CPR 1.74(b).  Status  1) □ Responsive to communication(s) filled on 31 August 2006.  2a) □ This action is FINAL.  2b) □ This action is FINAL.  2b) □ This action is FINAL.  2b) □ This action is fill action is non-final.  3) □ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.  Disposition of Claims  4) □ Claim(s)is/are pending in the application.  4) □ Claim(s)is/are allowed.  6) □ Claim(s)is/are allowed.  6) □ Claim(s)is/are allowed.  6) □ Claim(s)is/are rejected.  7) □ Claim(s)is/are rejected.  7) □ Claim(s)is/are rejected.  7) □ Claim(s)is/are rejected to by the Examiner.  Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a), Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  11) □ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.  Priority under 35 U.S.C. § 119  2c) □ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  a) □ All		CXAIIIIIei	ALLOINE					
Period for Reply								
A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEWER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.  Entirestors of time may be available under the provisions of 37 CRF 1.136(a). In no event, however, may a rapy be timely fitted  I NO period for rapy's appedied above, the maximum statutory period wit apply and wite opper SIX (6) MONTHS from the maining date of this communication.  Failure for poly within the set or catendad period for rapy with by statistic, uses the application become plankholder. [3 GU S.C. § 133). Any rapy's received by the Office later than there in months after the maining date of this communication. even if timely filled, may reduce any certain planking the time algorithms.  Status  1) Responsive to communication (s) filled on 31 August 2006.  2a) This action is FINAL.  2b) This action is non-final.  3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.  Disposition of Claims  4) Claim(s) 5.12 is/are pending in the application.  4) Claim(s) 5.12 is/are pending in the application.  4) Claim(s) is/are rejected.  5) Claim(s) is/are rejected.  7) Claim(s) is/are rejected.  8) Claim(s) is/are rejected.  9) The specification is objected to by the Examiner.  10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner.  Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a), Replacement drawing sheet(s) including the correction is required if the drawing(s) explication No								
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## DETAILED ACTION

## Election/Restrictions

Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 7-9, drawn to an in-ear earphone including a support element anchorable in a concha.

Group II, claim(s) 10-11, drawn to a headphone system with connecting element.

Group III, claim(s) 12, drawn to an earclip headphone including a loop for hooking engagement on an ear.

- The inventions listed as Groups I, II, and III do not relate to a single general
  inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the
  same or corresponding special technical features for the following reasons:
  - The second support element anchorable in a concha of a wearer is a special technical feature of Group I not present in Groups II or III.
  - The connecting element of Group II and a special technical feature not present in Groups II or III.
  - c. The loop for hooking engagement on an ear of Group III is a special technical feature not present in Groups I or II.

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 A telephone call was made to Gerald Kiel on August 21, 2008 to request an oral election to the above restriction requirement, but did not result in an election being made.

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement may be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To preserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

4. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JESSE A. ELBIN whose telephone number is (571)270-3710. The examiner can normally be reached on Monday through Friday, 8:00am to 5:00pm EDT.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Suhan Ni can be reached on (571) 272-7505. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/J. A. E./ Examiner, Art Unit 2615

/Suhan Ni/ Primary Examiner, Art Unit 2614